

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Tim Laman,

Plaintiff,

v.

Associated Newspapers, Ltd., d/b/a “Daily Mail”  
and “MailOnline”, and Does 1-10,

Defendants.

Case No.: 1:22-cv-1728

**COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT; and
3. VIOLATION OF THE DMCA:  
17 U.S.C. § 1202

**JURY TRIAL DEMANDED**

Plaintiff Tim Laman, by and through his undersigned attorneys, hereby prays to this honorable Court for relief based on the following:

**JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).
3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred. Venue and personal jurisdiction may also be appropriate under Fed. R. Civ. P. 4(k)(2).

**PARTIES**

4. Laman is an individual currently residing in New York, New York.
5. Plaintiff is informed and believes and thereon alleges that Defendant Associated Newspapers, Ltd., doing business as “Daily Mail” and “MailOnline” (“Daily Mail”) is a United Kingdom public limited company having its principal place of business at Northcliffe House, 2

Derry Street, Kensington, London Borough of Kensington and Chelsea, London, United Kingdom. Plaintiff is informed and believes that Daily Mail publishes or is in control of publishing, distributing, and selling content in both hard copy and online throughout the world, including in New York and this judicial district. It is believed that Daily Mail itself and through its affiliates and agents does business on a daily business in New York and within this judicial district. Therefore, this court has personal jurisdiction over Daily Mail.

6. Defendants Does 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

7. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

#### **CLAIMS RELATED TO SUBJECT PHOTOGRAPHY**

8. Plaintiff Tim Laman ("Laman") is an accomplished and critically acclaimed field biologist and wildlife photojournalist. He is a contributing photographer for *National Geographic* magazine, and films for the BBC Natural History Unit and Cornell Lab of Ornithology. He is an Associate of Harvard University's Museum of Comparative Zoology, a Fellow of the Explorer's Club, a founding member of the International League of Conservation

Photographers, and co-founder of Cornell Lab of Ornithology's Birds-of-Paradise Project. He has won numerous awards, including the North American Nature Photography Association – Nature Photographer of the Year 2009, Nature's Best Photography Awards, and Wildlife Photographer of the Year.

9. Laman created a series of original photographs and registered those photographs with the U.S. Copyright Office ("Subject Photography"), as reflected in **Exhibit 1**, attached hereto. Laman is the sole owner of all exclusive rights in the Subject Photography.

10. Defendants, and each of them, have willfully copied, reproduced, displayed, and distributed the Subject Photography for financial benefit and without Plaintiff's consent ("Infringing Content"), in articles at or on websites bearing the URL(s) depicted in **Exhibit 2** attached hereto.

11. Plaintiff at no point authorized Defendants, or any of them, to use Subject Photography as complained of herein. A comparison of the Subject Photography with Infringing Content, depicted in **Exhibit 2** attached hereto, reveals that the elements, composition, colors, arrangement, subject, lighting, angle, and overall appearance of the images are identical or at least substantially similar.

### **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against all Defendants, and Each)

12. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating an infringing and/or derivative work from the Subject Photography and by publishing the work which infringes the Subject Photography to the public, including without limitation, on and through their website(s).

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's rights by copying the Subject Photography without Plaintiff's

authorization or consent, creating unlawful derivative works from the Subject Photography, and removing attribution to Plaintiff from certain Subject Photography.

15. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Photography, including, without limitation, through viewing the Subject Photography on Plaintiff's website, publications, profiles, exhibitions and/or through other authorized channels, over the internet, including without limitation as accessed via a search engine, or through a third-party source.

16. Plaintiff is further informed and believes and thereon alleges that certain Defendants have an ongoing business relationship with one or more of the other Defendants, and that those defendants transacted in order to traffic in the Infringing Content.

17. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.

18. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of Plaintiff's rights in the Subject Photography. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of his rights in the Subject Photography in an amount to be established at trial.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement. Within the time permitted by law, Plaintiff will make her election between actual damages and statutory damages.

**SECOND CLAIM FOR RELIEF**

(For Vicarious and/or Contributory Copyright Infringement – Against all Defendants, and Each)

20. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

21. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and distribution of the Subject Photography as alleged hereinabove.

22. Plaintiff is informed and believes and thereon alleges that Defendants, knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction publication, and distribution of the Subject Photography as alleged hereinabove.

23. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct. Specifically, each Defendant had the ability to oversee the development, publication, and distribution of the infringing imagery at issue. And, Defendants, and each of them, realized profits through their respective obtainment, distribution, and publication of the Infringing Content.

24. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to his business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

25. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of Plaintiff's rights in the Subject Photography. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of his rights in the Subject Photography, in an amount to be established at trial.

26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement, in addition to claims for costs and attorneys' fees. Within the time permitted by law, Plaintiff will make her election between actual damages and statutory damages.

### **THIRD CLAIM FOR RELIEF**

(For Violation of the DMCA: 17 U.S.C. § 1202 – Against all Defendants, and Each)

27. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

28. Defendants, and each of them, violated Section 1202 of the Copyright Act by removing from the Subject Photography any attribution or copyright management information that identifies Plaintiff as its author, and/or added false copyright management.

29. Defendants, and each of them, violated Section 1202 of the Copyright Act by displaying, publishing, and distributing the Subject Photography with attribution and copyright management information that identifies "AP" and "EPA" as the authors of certain Subject Photography.

30. The aforementioned facts constitute "copyright management information" as that phrase is defined in 17 U.S.C. § 1202(c) and is false.

31. The above violation, which was willful, subjects Defendants, and each of them, to entry of judgment reflecting Plaintiff's actual damages and any additional profits of the violator, statutory damages, and attorneys' fees under 17 U.S.C. § 1203.

### **PRAYER FOR RELIEF**

32. Wherefore, Plaintiff prays for judgment as follow against all Defendants and with respect to each claim for relief:

- a. That Defendants, their affiliates, agents, and employees be enjoined from infringing Plaintiff's copyright in and to the Subject Photography.
- b. That Plaintiff be awarded all profits of Defendants, and each, plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages to the extent they are available under the Copyright Act, 17 U.S.C. § 505, 1203.
- c. That Plaintiff be awarded its costs and attorneys' fees to the extent they are available under the Copyright Act U.S.C. § 505, 1203;
- d. That a trust be entered over the Infringing Content, and all profits realized through the infringement;
- e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- f. That Plaintiff be awarded the costs of this action; and
- g. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.





Respectfully submitted,





Dated: March 1, 2022

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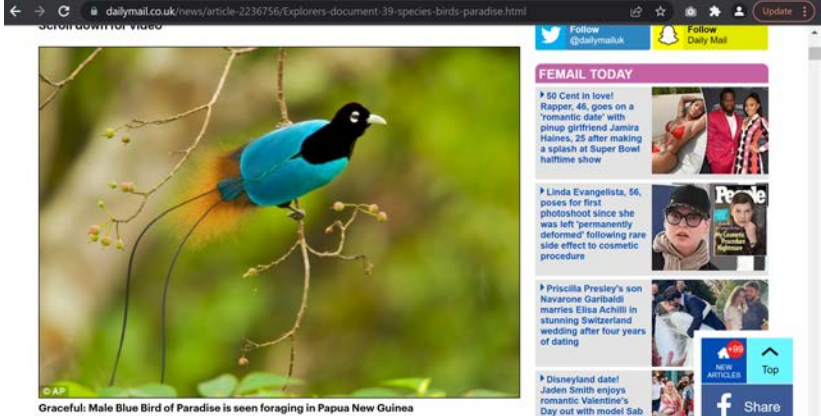

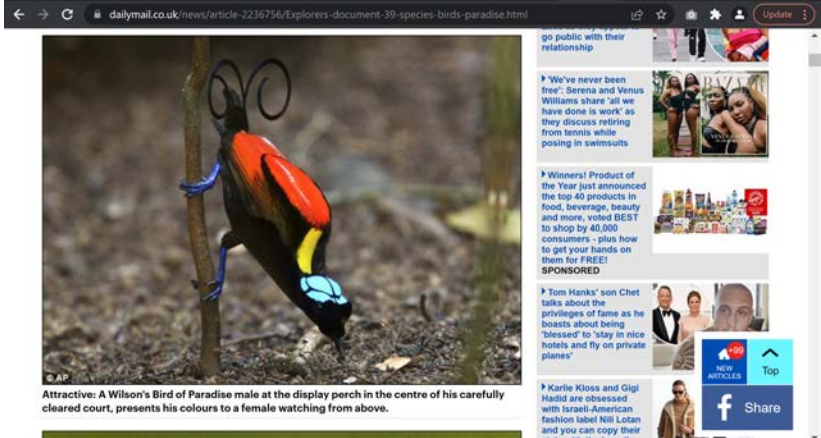

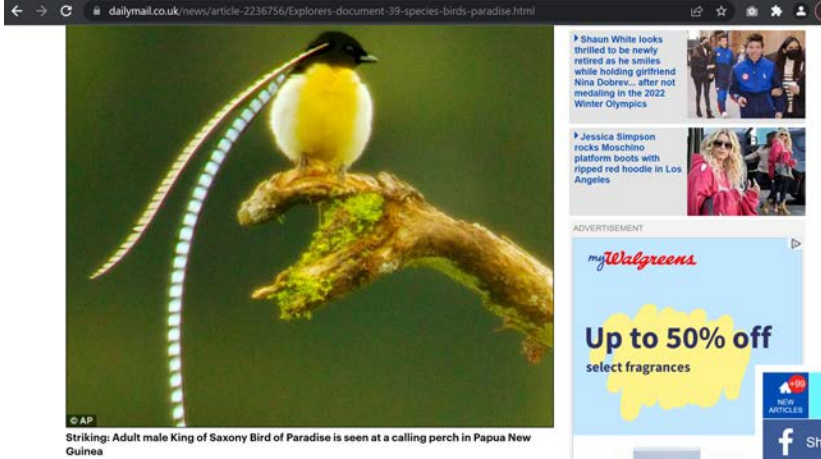
**EXHIBIT 1**



	Subject Photography	Registration No.
1.	MM7163-060913-10638.jpg 	VA 1-977-832
2.	MM7163-041117-02317.jpg 	VA 1-977-832
3.	BOP-111025-079.jpg 	VA 1-987-399
4.	BOP-111015-188.jpg 	VA 1-987-399

5.	MM8117 140310 17040.jpg 	VAu 1-270-202
6.	MM8117 140317 20653.jpg 	VAu 1-270-202
7.	MM8117 151024 52173.jpg 	VAu 1-270-202
8.	150727 00587.jpg 	VA 1-977-832

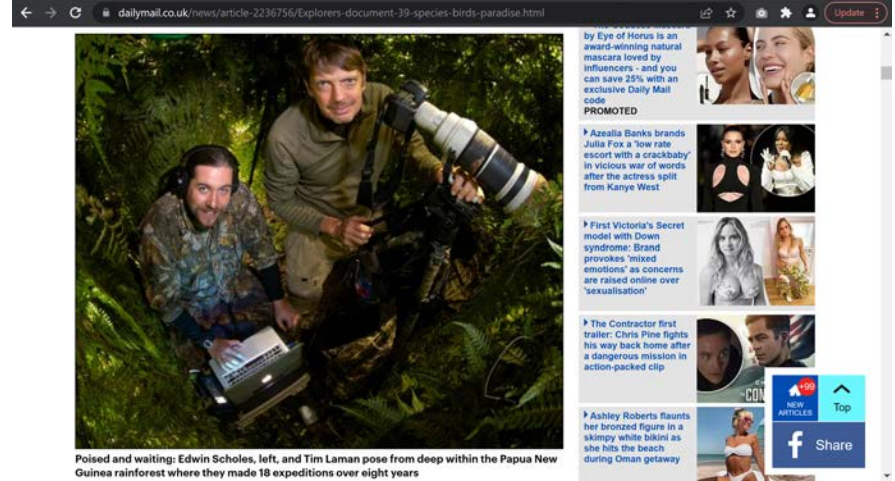
**EXHIBIT 2**

	Subject Photography	Non Inclusive Exemplars of Infringing Content
1.	<p>MM7163-060913-10638.jpg</p> 	<p><a href="https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html">https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html</a></p>  <p>Graceful: Male Blue Bird of Paradise is seen foraging in Papua New Guinea</p>
2.	<p>MM7163-041117-02317.jpg</p> 	<p><a href="https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html">https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html</a></p>  <p>Attractive: A Wilson's Bird of Paradise male at the display perch in the centre of his carefully cleared court, presents his colours to a female watching from above.</p>
3.	<p>BOP-111025-079.jpg</p> 	<p><a href="https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html">https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html</a></p>  <p>Striking: Adult male King of Saxony Bird of Paradise is seen at a calling perch in Papua New Guinea</p>



4.

BOP-111015-188.jpg


<https://www.dailymail.co.uk/news/article-2236756/Explorers-document-39-species-birds-paradise.html>


5.

MM8117 140310 17040.jpg


<https://www.dailymail.co.uk/femail/article-6826379/Sir-David-Attenborough-says-Netflix-series-Planet-important-hes-made.html>


6.

MM8117 140317 20653.jpg


<https://www.dailymail.co.uk/news/article-3452659/Australian-wins-World-Press-Photo-migrants-image.html>




7.

MM8117 151024 52173.jpg



<https://www.dailymail.co.uk/news/article-3452659/Australian-wins-World-Press-Photo-migrants-image.html>



8.

150727 00587.jpg



<https://www.dailymail.co.uk/news/article-3452659/Australian-wins-World-Press-Photo-migrants-image.html>

